

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

INFORMATION TECHNOLOGIES  
CORPORATION,

Plaintiff,

v.

BONNEVILLE POWER ADMINISTRATION,  
et al.,

Defendant.

NO. C05-0491P

ORDER OF DISMISSAL

On May 23, 2005, this Court entered a Minute Order in this case that stated:

This matter comes before the Court on Defendant's Motion to Dismiss Plaintiff's case for lack of subject matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1). (Dkt. No. 3). This Motion was noted for May 20, 2005. To date, the Plaintiff in this action has filed no Response to the Motion. Under Local Civil Rule 7(b)(2): "[i]f a party fails to file papers in opposition to a motion, such failure may be considered by the court as an admission that the motion has merit." Additionally, the Court notes that Information Technologies Corporation does not appear to be represented by an attorney in this action. In order to appear in federal court, a corporation must be represented by a licensed attorney. U.S. v. High County Broadcasting Co., Inc., 3 F. 3d. 1244, 1245 (1993). (Dkt. No. 5)

The Court granted Plaintiff five days in which to retain counsel and respond to the Defendant's Motion to Dismiss. The Court warned Plaintiff that if no response was received by the Court at the end of five days, the Court would interpret Plaintiff's silence as an admission under Local Civil Rule 7(b)(2) of the merit of Defendant's motion.

To date, Plaintiff has not responded to Defendant's Motion, nor to this Court's Minute Order. Accordingly, the Court finds that Defendant's Motion to Dismiss has merit and that this Court lacks

1 subject matter jurisdiction in this action because Plaintiff failed to exhaust its administrative remedies.

2 The Court hereby GRANTS Defendant's Motion and DISMISSES this case with prejudice.

3 The clerk is directed to send copies of this order to all counsel of record.

4 Dated: June 1, 2005.

5 /s/ Marsha J. Pechman

6 Marsha J. Pechman

7 United States District Judge